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May 6, 2015

Via ECF and FacsimileThe Honorable Gabriel W. Gorenstein  
United States District Court  
500 Pearl Street, Courtroom 6B  
New York, NY 10007  
(212) 805-4268 Fax**MEMO ENDORSED****Re: John Wiley & Sons, Inc. v. Book Dog Books, LLC, 1:13-cv-00816 (WHP)(GWG):  
Joint Status Letter**

Dear Judge Gorenstein:

Pursuant to the Court's Order from the April 6, 2015 teleconference, the parties submit this joint status letter.

1. Discovery

On April 24, 2015, Plaintiffs produced to Defendants a supplemental roadmap that adds 22 new titles to the case, bringing the total number of works at issue to 140. Plaintiffs have also produced supplemental expert reports from each of the three plaintiffs that identify the counterfeit characteristics of exemplars provided for each new title.

Plaintiffs issued interrogatories regarding the new counterfeit titles. Defendants' answers were provided on April 30, 2015.

Defendants are scheduled to inspect the counterfeit and legitimate exemplars of the new titles on May 7, 2015.

2. Stipulation Regarding Tichenor

On April 20, 2015, Plaintiffs provided Defendants with a proposed stipulation regarding the authenticity and admissibility of documents produced by the supplier who sold Defendants copies of the new counterfeit titles, Tichenor College Textbook Company ("Tichenor"). Defendants will not agree to any such stipulation. Plaintiffs will therefore require the deposition of a Tichenor representative regarding their documents and the purchase and sale of counterfeit books sold to Defendants and inspected by Plaintiffs.

Hon. Gabriel W. Gorenstein  
May 6, 2015  
Page 2 of 3

3. Depositions

Depositions have not yet been completed. Plaintiffs require the completion of the deposition of Defendants' witness, John Glass, whom Defendants have also designated as their supplemental Rule 30(b)(6) witness for new issues raised. Although these depositions were scheduled for April 30 and May 1, 2015, Defendants canceled the depositions several days prior to the set dates, explaining that the witness was not available for personal reasons. These two depositions are now scheduled for May 11 and 12, 2015.

Defendants have requested depositions of each of Plaintiffs' experts regarding the supplemental expert reports filed on the new counterfeit titles. These depositions are scheduled for May 14 and May 21, 2015.

The parties are working cooperatively to schedule the Tichenor deposition, although a date has not yet been set.

4. Amending the Complaint

Defendants have requested that Plaintiffs amend the Complaint to specifically enumerate the 140 works now at issue and as set forth in Plaintiffs' revised Roadmap. Plaintiffs agree to file a Second Amended Complaint that will contain a final list of works at issue and that will make certain other revisions to their allegations. In exchange, Defendants will not oppose Plaintiffs' addition of new works at issue to the case, or otherwise oppose the ability to amend the complaint. Plaintiffs will file the Second Amended Complaint by May 22, 2015.

5. Defendants' Motion for Summary Judgment

In light of the addition of the 22 new titles, the anticipated second amended complaint, and the upcoming additional depositions, Defendants will be filing a supplemental memorandum in support of their motion for summary judgment. Defendants seek to have enough time following the completion of the remaining depositions before filing this supplement. It is not yet known when the Tichenor deposition will be completed because the parties are still working on scheduling it. In consideration of this unknown factor and that other currently scheduled items will not be completed until May 22 (following which, the parties will need to allow time to obtain transcripts), Defendants request a deadline of June 15, 2015 to supplement their motion for summary judgment.

Plaintiffs will have two weeks to file a response.

Case 1:13-cv-00816-WHP-GWG Document 257 Filed 05/06/15 Page 3 of 3

Hon. Gabriel W. Gorenstein  
May 6, 2015  
Page 3 of 3

Respectfully submitted,

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*Attorneys for Defendants*

In light of the need to supplement, plaintiff's motion for summary judgment (Docket # 200) is deemed withdrawn without prejudice. Any new motion shall be filed by June 15, 2015. The briefing schedule on the new motion shall be in accordance with paragraph 2.B of this Court's Individual Practices. In briefing the new motion the parties should not re-file previously filed supporting papers (such as affidavits) but may instead cite to such papers in their memoranda of law.

Additionally, plaintiff has leave to file a Second Amended Complaint as set forth in this letter.

SO ORDERED. DATE: 5/7/15  
GABRIEL W. GORENSTEIN  
UNITED STATES MAGISTRATE JUDGE